IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929

Crl.Rev.Pet.No. 413 of 2000(C)

CC.336/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT, CHAVAKKAD

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REVN. PETITIONER:

MUHAMMED AZEEZ,
PALAYAMKOTT HOUSE,
BLANGAD DESOM,
KADAPPURAM AMSOM, CHAVAKKAD TALUK.

BY ADV. SRI.A.K.CHINNAN
SMT.GIJI MATHEW

RESPONDENTS:
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1. SHAHUL HAMEED, S/O. ABDUL KHADER PONATH HOUSE, KADAPPURAM AMSOM, DESOM, CHAVAKKAD TALUK.

2. STATE OF KERALA REPRESENTED BY ITS STATE PROSECUTOR, HIGH COURT OF KERALA, KOCHI.

BY ADV. SMT.JAYASREE MANOJ
SRI. AMJAD ALI, PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J

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CRL. R.P. NO. 413 OF 2000

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Dated this the 1st day of June 2007

O R D E R

The revision petitioner is the complainant in the proceedings with respect to the offence under Section 138 of the Negotiable Instruments Act. The grievance of the revision petitioner is that although the accused was found guilty, the sentence awarded is only to pay a fine of Rs.5,000/- and in default to undergo simple imprisonment for three months. The cheque amount was Rs.2,20,000/-

2. The counsel for the revision petitioner has also relied on the decision of the Supreme Court in **Suganthi Suresh Kumar v. Jagdeeshan** (JT 2002 (1) SC 220/ AIR 2002 (2) SC 681) to the effect that imposing such sentence would defeat the very object of Section 138. Evidently, the sentence imposed by the court below is totally inadequate. In the circumstances, the sentence imposed by the court below is set aside. The conviction is confirmed. The matter is remitted back to the court below to

reconsider the sentence imposed and to impose fresh sentence as per law. The matter is to be posted before the court below on **18.06.2007.**

The Crl. R.P is disposed of accordingly.

K.R. UDAYABHANU, JUDGE.

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